UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

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| ELOISA COSAJAY | : | |
| VS. | : | CIVIL ACTION NO.: CA10-442S |
| MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC., CM REO TRUST, AND SAXON MORTGAGE SERVICES, INC. | : | |

OBJECTION TO REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE AND APPEAL TO THE DISTRICT COURT JUDGE

Plaintiff, by her Attorney, pursuant to FRCP 72(b) and DRI LR Cv 72(d) objects to the Report and Recommendation of the Magistrate Judge and appeal to the District Court Judge for the following reasons listed herein and further indicated in the Memorandum of Law attached hereto. The Plaintiff, pursuant to DRI LR Cv 7(e) request oral argument in this matter. It is estimated that oral argument will take at least one hour per side. This argument is requested due to the nature of the issues before the Court.

1. The Magistrate Judge made the following erroneous findings of fact in a disputed case in response to a FRCP 12(b)(1) motion which the Court treated as a RFCP 12(b)(6) motion:

a. The Note was secured by a mortgage, which the plaintiff executed in favor of Lime, as lender and Mortgage Electronic Registration Systems, Inc as Limes's nominee, successor and assign P. 2

b. Plaintiff's promissory note and mortgage were the subject of three assignments. P. 2-3

c. On March 12, 2008 MERS as nominee for Lime, assigned the mortgage to Deutsche Bank Trust Company America, as Trustee and Custodian for Ixis Real estate Capital, Inc.. ("Deutsche Bank"). P. 3

d. On September 4, 2008, Deutsche Bank assigned the Mortgage to Saxon Mortgage Services, Inc. ("Saxon"). P. 3

e. On March 5, 2009 Saxon assigned the mortgage to CM REO Trust. P. 3

f. Plaintiff failed to make monthly payments and defaulted on her loan. P. 3

g. Plaintiff seeks principally to enjoin Defendants from foreclosing on the Property by challenging the validity of the assignments and the note. P. 21

h. It is undisputed that Plaintiff is not a party to the assignment agreements. P. 25

i. Plaintiff does not have standing to assert legal rights based on these documents. P. 25

j. The plaintiff is a stranger to the assignments. P. 25

k. Plaintiff was not a party to . . these assignments. P. 29

l. Plaintiff is attempting to invokes rights under agreements to which she is not a party. P. 30

m. Plaintiff has not been injured by any alleged fraud or wrong-doing by Defendants. P. 31

n. Whether a subsequent assignee enforces the right to foreclose or the original mortgagee, Plaintiff will not be harmed so long as she was in default. P. 31

o. Plaintiff is still in default on her mortgage and is subject to your claim. P. 31

p. She has defaulted on the $220,000.00 loan which she used to purchase the property.

2. The Magistrate Judge made the following errors of law in the report and recommendation:

a. The Court incorrectly applied the incorrect standing analysis and failed to recognize the standing of the Plaintiffs in seeking judicial relief against being foreclosed by a stranger to title of the mortgage, who does not hold the note.

b. The Court incorrectly applied the Livonia Props Holdings, LLC, Bridge v. Ames Capital Corp, Liu v. T & H Mach. Inc., Turner v.Lerner, Ifert v. Milller and Jarbo v. BAC Home Loan Serv. decisions, which are all contrary to Rhode Island law.

c. The Court incorrectly applied Rhode Island law in finding that the Plaintiff lacked standing.

d. The Court ignored the paragraph 22 of the mortgage, wherein the Plaintiff granted to Mortgage Electronic Registration Systems, Inc. as nominee for Lime Financial Services, Ltd a power of sale pursuant to RIGL 34-11-22.

e. The Magistrate Judge incorrectly determined under Rhode Island law that Plaintiff has no standing to challenge the validity of assignment or agreements to which she is not a party.

f. The Magistrate Judge ignored the allegations and the undisputed fact that MERS lacked authority to assign the note at any time and that MERS never held the note.

g. The Magistrate Judge erroneously made factual determinations regarding disputed facts.

h. The Magistrate Judge erroneously applied Rhode Island law and ignored a prior case in the Rhode Island Superior Court, in which the identical argument was made by the same law firm representing defendants and said argument was rejected by the Superior Court Judge.

i. The Magistrate Judge did not properly apply the standard for a RRCP 12(b)(6) Motion to dismiss and did not determine for purposes of the Motion that all allegations pleaded by the Plaintiff were true. Said allegations if proven would yield the conclusion that the Defendant CM REO does not hold the Plaintiff's mortgage and is not entitled to enforce the note.

j. The Magistrate Judge erroneously granted the Motion to Dismiss for failure to state a claim upon which relief may be granted.

k. The Magistrate Judge erroneously failed to consider the lack of authority of MERS as nominee for Lime Financial services, Ltd to assign the mortgage.

l. The Magistrate Judge erroneously applied Rhode Island Law regarding proof of agency as to the ability of MERS to assign the mortgage without the consent of Lime Financial Services, Ltd.

m. The Magistrate Judge erroneously failed to consider the lack of authority of any of the alleged signers of the so-called assignments to sign said documents.

n. The Magistrate Judge erroneously applied contract law to the Plaintiffs mortgage, which is a conveyance in land pursuant to Rhode Island law.

o. The Magistrate Judge erroneously ignored the allegation that the note remained payable to Lime and was not indorsed to any party.

p. The Magistrate Judge erroneously decided that a party behind on mortgage payments could not file a complaint under Rhode Island law seeking equitable relief and to seek Injunctive relief against a foreclosure by a party who they contend does not hold the mortgage or who is not entitled to enforce the note.

q. The Magistrate Judge erroneously ignored the allegation in Plaintiff's complaint that the first alleged assignment was to a non-existent Trust and that the second alleged assignment was from a non-existent Trust.

WHEREFORE, Plaintiff objects to the Report and Recommendation of the Magistrate Judge and request a hearing pursuant to RI LR Cv 7(e) and appeals to the District Court Judge for the these reasons and those cited in the Memorandum of Law.

ELOISA COSAJAY
By her Attorney

July 11, 2011

/s/ John B. Ennis
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CERTIFICATE OF SERVICE

I, John B. Ennis, hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 11, 2011. A copy is also being sent electronically and by regular mail, postage prepaid to Magistrate Judge David Martin.

/s/ John B. Ennis